

## **REMARKS**

Claims 26 - 43 are in the application. Claims 26 - 43 were previously presented. Claims 44 - 56 are cancelled. Claim 26 is the independent claim herein.

No new matter is added to the application as a result of the present Amendments and Response. Reconsideration and further examination are respectfully requested.

### **Claim Rejections Under 35 USC § 103(a)**

Claims 26-33 and 38-43 are rejected as being unpatentable over Basch et al., U.S. Patent No. 6,119,103 (hereinafter, Basch) in view of Moss et al., U.S. Patent Publication No. 2002/0128945 A1 (hereinafter, Moss). This rejection is respectfully traversed.

Contrary to the Office Action, Basch does not disclose or suggest managing risk related to an online transaction associated with an online marketplace. Basch is primarily concerned with a computer-implemented method for predicting financial risk. In some embodiments, Basch discloses financial risk prediction techniques that use scoreable transactions as input data to assess the level of financial risk of a particular account and/or account holder. Examples of scoreable transactions include, for example, authorization requests for purchases of goods or services made on credit, clearing and settlement transactions between merchants and account issuers pertaining to one or more accounts, account issuer-supplied account records, public records, and the like. (See Basch, col. 5, ln. 8-16) There is no disclosure or suggestion that the scoreable transactions of Basch occur online or are otherwise related to online transactions. In fact, Basch does not even use "online" in the disclosure thereof.

Claim 26 is currently amended to clarify that the claimed transaction is an online transaction associated with the online marketplace. Again, Basch does not disclose or suggest a method of managing risk related to an online transaction associated with an online marketplace.

The Office Action cites and relies upon Basch, col. 3, ln. 51-56, for disclosing a method for managing risk including receiving data descriptive of: an amount of money involved in the transaction, and one or more currencies involved in a transaction. The Office Action states, "when the amount of money involved in the transaction is specified, a currency involving the amount of money is automatically specified". (See Office Action, paragraph 5) Basch's disclosure of a "transaction amount" at col. 3, ln. 55 does not disclose or suggest a specification of one or more currencies involved in the transaction. Contrary to the Office Action, a specific currency is not specified by the indication of a transaction amount. For example, an amount of "1,000" does not disclose, convey or imply any particular currency. Further, there is no disclosure or suggestion that a transaction amount of Basch include a currency indication.

Neither Basch nor the Examiner appear to appreciate or even consider the diversity and variety of online transactions and market participants addressed by the claimed methods. A transaction amount of "1,000" is insufficient in an online environment where online market participants may be located in various countries around the world and use different currencies associated with each particular country. For example, 1000 U.S. dollars is not the same as 1000 Euros, or 1000 Canadian dollars, etc. A transaction amount and a transaction currency are used to sufficiently and clearly indicate the monetary terms of the transaction. Unlike Basch, the claimed methods require both a transaction amount and a currency for the transaction.

Basch is further cited and relied upon for disclosing associating a portion of the risk data with at least one of the data descriptive of the online transaction and the identifier of one or more market participants associated with the online transaction. It is respectfully submitted that the "risk" disclosed in Basch is a financial risk that is related to a scoreable transaction associated with credit scores. Again, the scoreable transactions are not disclosed as being the same as or suggestive of online transactions. Therefore, notwithstanding the type of "risk" disclosed by Basch, it is clear that the Basch disclosed risk is not associated with at least one of the data descriptive of the online transaction and the identifier of one or more market participants

associated with the online transaction since Basch is not concerned with or directed to online transactions.

The Office Action cites and relies upon Moss for disclosing geographic locations associated with a transaction; government regulations associated with the transaction; and receiving into the computer system risk data that is generally related to at least one of regulatory risk and associated with a cost to defend an adverse position. (See Moss, paragraphs [0064]- [0065]) However, Moss in fact discloses an active quote record 50 that includes an institution status field 62. The institution status indicators may include “(1) The country of incorporation of the originating party, or the geographical location of its parent organisation. (2) The liability risk associated with the originating party based on its level within a larger organisation, e.g., whether it is a full or sub-branch of a bank. (3) The institutional risk associated with the originating party based on whether it is an officially regulated or non-regulated organisation, e.g., bank etc. (4) The credit risk associated with the originating party, e.g., based on an internationally established credit rating from an independent body.” It is noted that the disclosed liability risk and the institutional risk are not further discussed or defined beyond the above statements.

There does not appear to be any disclosure in Moss of a risk associated with a cost to defend an adverse position, as claimed. The disclosed liability risk associated with an originating party appears to merely allocate an amount of risk that may be attributed to the originating party as opposed to a parent organization. The disclosed liability risk does not appear to disclose or suggest a (total) cost to defend an adverse position.

Also, Moss does not appear to disclose or suggest receiving data descriptive of government regulations related to online transactions, as claimed by Applicant. Moss merely mentions an industrial risk associated with whether an originating party is a regulated or unregulated organization. There is no disclosure that the regulations are provided, mandated, or otherwise governmental regulations. In fact, the institutional risk may be associated with, for example, industry suggested or industry imposed

regulations. There is no suggestion that the industrial risks are associated with governmental regulations.

Based on the alleged disclosures of Basch and Moss, the Office Action concludes that it would have been obvious to modify Basch to include steps (allegedly disclosed by Moss) of geographic locations associated with a transaction, government regulations associated with a transaction, and receiving into the computer system risk data related to at least one of regulatory risks and risk associated with a cost to defend an adverse position. However, as discussed in detail above, both Basch and Moss fail to disclose that for which they were cited and relied upon for disclosing. Therefore, the combination of Basch and Moss fails to render the pending claims obvious.

Furthermore, the Office Action provides no reasonable and/or logical reasoning why it would be obvious to modify Basch to include, for example, geographical location information, in the techniques for predicting credit risks. Basch purports to disclose a complete method for determining credit risks based on credit scores. It is not seen how or why geographic locations of parties to a transaction would be needed or help the parties to the transaction. For example, the Office Action does not indicate how the geographic information would be relevant to the credit risk separate from the credit score for a transaction participant. It would appear that if the geographic location were relevant to a credit score (as suggested by the Office Action, not admitted as feasible by Applicant), then a credit scoring agency would include such a factor in the determination of the credit score provided to the Basch method. The Basch method would not therefore need to consider the geographic location of a transaction participant.

Furthermore, since Moss fails to disclose or suggest government regulations, let alone government regulations associated with online transactions as claimed, the combination of Basch and Moss fails to make claim 26 obvious.

Also, it is not seen from the cited and relied upon references nor has the Office Action articulated any reasoning why regulatory risk or risk associated with a cost to defend an adverse position is relevant to a credit risk. That is, the financial or credit risk

of Basch and Moss is different than and not suggestive of the regulatory risk and cost to defend an adverse position claimed by Applicant. Neither Basch nor Moss are concerned with regulatory risks and costs to defend an adverse position. It is not seen how regulatory risks and costs to defend an adverse position are relevant to the financial credit risks of primary concern to Basch and Moss. Also, as discussed in detail above, Moss fails to disclose the claimed regulatory risk and cost to defend an adverse position.

Therefore, for at least the foregoing reasons, Applicant respectfully submits that the cited and relied upon combination of Basch and Moss fails to render claim 26 obvious under 35 USC 103(a). Claims 27-33 and 38-43 depend directly or indirectly from claim 26. It is respectfully submitted that claims 27-33 and 38-43 are also patentable under 35 USC 103(a) for at least the same reasons provided for claims 26.

Therefore, the reconsideration and allowance of claims 26-33 and 38-43 are respectfully requested, as is the allowance of same.

Claims 34-37 were rejected as being unpatentable over Basch in view of Moss and further in view of Spitz et al., U.S. Patent Publication No. 2002/0139837 A1 (hereinafter, Spitz). This rejection is respectfully traversed.

Inasmuch as the rejection of claims 34-37 is based on the same reasoning provided for the rejection of claim 26, Applicant respectfully submits that claims 34-37 are patentable over Basch, Moss and Spitz. Applicant reiterates that the cited and relied upon combination of Basch and Moss fails to render claim 26 obvious. Accordingly, the rejection of claims 34-37 that relies on the same basis as claim 26 is also insufficient to support the rejection of claims 34-37 that depend from claim 26.


Therefore, Applicant respectfully submits that claims 34-37 are patentable over the cited and relied upon combination of Basch, Moss, and Spitz under 35 USC 103(a). The reconsideration and allowance of claims 34-37 are respectfully requested, as is the allowance of same.

### CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

July 6, 2005  
Date

  
\_\_\_\_\_  
Randolph P. Calhoun  
Registration No. 45,371  
Buckley, Maschoff & Talwalkar LLC  
Five Elm Street  
New Canaan, CT 06840  
(203) 972-5985